

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No.: BKY 04-32565

STEVEN HOLCOMB,

Debtor.

Chapter 7 Case

**NOTICE OF HEARING
AND
MOTION OBJECTING TO CLAIMED EXEMPTIONS**

TO: The debtor and other entities specified in Local Rule 9013-3.

Paul W. Bucher, the trustee in bankruptcy in this case (the “trustee”), moves the Court for the relief requested below and gives notice of hearing.

1. The Court will hold a hearing on this Motion at 10:00 a.m. on September 7, 2004, in Courtroom No. 228B, at the United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.

2. Because this Motion is being delivered at least 21 days or mailed at least 24 days before the hearing date, any response to this Motion must be filed and delivered not later than August 31, 2004, which is seven days before the time set for the hearing (including Saturdays, Sundays and holidays), or filed and served by mail not later than August 28, 2004, which is ten days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. This Court has jurisdiction over this Motion pursuant to Sections 157 and 1334 of Title 28 of the United States Code, Rule 5005 of the Federal Rules of Bankruptcy Procedure, and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on April 28, 2004. This case is now pending in this court.

4. This Motion arises under Section 522 of the United States Bankruptcy Code (11 U.S.C. §522), Rule 4003 of the Federal Rules of Bankruptcy Procedure, and Local Rule 4003-1(a). This Motion is filed under Rules 9013 and 9014 of the Federal Rules of Bankruptcy Procedure and Local Rules 9013-1, 9013-2, 9013-3 and 9013-5. The trustee requests relief with respect to objections to certain property claimed as exempt by the debtor.

5. The debtor has elected to claim property as exempt under Section 522(b)(2) of the United States Bankruptcy Code. See the attached Schedule C filed in this case.

6. The debtor has claimed the following assets as exempt under the following statute: 1993 Mercury Topaz, 1993 Chrysler LeBaron, and 1978 Ford Bronco under Minn. Stat. §550.37, subd. 12(a). This statute allows a debtor to exempt equity up to \$3,600 in one vehicle. The trustee objects to the claimed exemption on the grounds that the debtor has attempted to exempt three vehicles under this statute.

7. The debtor has claimed the following asset as exempt under the following statute: Checking Account at First National Bank under Minn. Stat. §550.37, subd. 13. This statute allow debtors to exempt earnings up to 75% and exempt funds on deposit if they are earnings deposited within the last 20 days. The balance in the debtor's checking account on the date of filing was actually \$1,051.43. The trustee objects to the claimed exemption on the grounds that the debtor balance on the date of filing was considerably more than scheduled and that the debtor has attempted to exempt 100% of the balance.

8. If oral testimony is necessary at the hearing, the trustee will call the debtor: Steven Holcomb, 231 Hill Street, P.O. Box 158, Kasota, MN 56050, who will testify concerning the 1993 Mercury Topaz, 1993 Chrysler LeBaron, 1978 Ford Bronco, the Checking Account at First National Bank, and any other matters, if necessary.

Wherefore, the trustee moves the Court for an order denying the above exemptions claimed by the debtor, and such other relief as the Court finds just and equitable.

Dated: July 22, 2004

/e/ Paul W. Bucher

Paul W. Bucher, Trustee
206 South Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903-0549
Telephone: (507) 288-9111

VERIFICATION

I, Paul W. Bucher, the trustee in bankruptcy in this case and the moving party named in the foregoing Notice of Hearing and Motion Objecting to Claim of Exemption, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on July 22, 2004

/e/ Paul W. Bucher

Paul W. Bucher
206 South Broadway, Suite 505
Rochester, Minnesota 55904

In re STEVEN HOLCOMB
Debtor

Case No. _____
(If known)

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemption to which debtor is entitled under:

(Check one box)

☐ 11 U.S.C. § 522(b)(1): Exemptions provided in U.S.C. § 522(d). Note: These exemptions are available only in certain states.

☒ 11 U.S.C. § 522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law. Where Federal Exemptions are not indicated, all references are to Minnesota Statutes Annotated unless otherwise noted.

DESCRIPTION OF PROPERTY	SPECIFIC LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT MARKET VALUE OF PROPERTY WITHOUT DEDUCTING EXEMPTION
CHECKING ACCOUNT	550.37 SUBD. 13;	45.00	45.00
CITY of KASOTA FAMILY RESIDENCE Block-051 W 50 FT of E 1/4 of N 1/2	510.01, 510.02, 550.37 SUBD. 12;	24000.00	24000.00
AUTO 1993 MERCURY TOPAZ (SON'S)	550.37 SUBD. 12(A);	880.00	880.00
AUTO 1993 CHRYSLER LABARON	550.37 SUBD. 12(A);	500.00	500.00
TRUCK 1978 FORD BRONCO	550.37 SUBD. 12(A);	300.00	300.00
HOUSE HOLD GOODS	550.37 SUBD. 4(B);	3000.00	3000.00
CLOTHING ETC.	550.37 SUBD. 4(A);	1000.00	1000.00
COUNTY of LESUEUR City of KASOTA Block-051 W. 50 FT. EAST 1/4 of N. 1/2			

County of LESUEUR

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA

In re:

Steven Holcomb

Debtor.

Bky Case No. 04-32565
Chapter 7

UNSWORN CERTIFICATE OF SERVICE

I, Jennifer M. Albright, declare under penalty of perjury that on July 22, 2004, I mailed copies of the following:

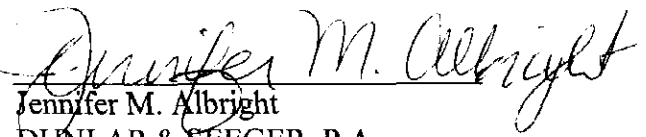
Notice of Hearing and Motion Objecting to Claimed Exemptions and Proposed Order

by United States Mail, postage pre-paid, to each entity named below at the address stated below:

Steven Holcomb
231 Hill Street
P.O. Box 158
Kasota, MN 56050

UNITED STATES TRUSTEE
1015 U S COURTHOUSE
300 SOUTH 4TH STREET
MINNEAPOLIS MN 55415

Executed on July 22, 2004.

Signed: 

Jennifer M. Albright
DUNLAP & SEEGER, P.A.
P O BOX 549
ROCHESTER MN 55903-0549
(507) 288-9111

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No.: BKY 04-32565

STEVEN HOLCOMB,

Debtor.

Chapter 7 Case

ORDER DENYING CLAIMED EXEMPTIONS

This matter came before the Court on the 7 day of September, 2004, on the Motion of the Trustee Objecting to Claimed Exemptions. Appearances, if any, were noted of record. Based on the file, proceedings and record in this matter:

IT IS HEREBY ORDERED that:

The Trustee's Motion Objecting to Claimed Exemptions is sustained, and accordingly:

1. The debtor's claimed exemption of 1993 Mercury Topaz, 1993 Chrysler LeBaron, and 1978 Ford Bronco is denied.
2. The debtor's claimed exemption of Checking Account at First National Bank is denied.

Dated: _____

Honorable Gregory F. Kishel
United States Bankruptcy Judge